

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-475

November 14, 2003

COMMUNITY SERVICE TELEPHONE
COMPANY and NORTHLAND, SIDNEY,
STANDISH, CHINA and MAINE
TELEPHONE COMPANIES (FAIRPOINT
COMPANIES OF NEW ENGLAND),
Requests for Approval of Reorganizations

ORDER APPROVING
STIPULATION

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order we approve a Stipulation among Community Service Telephone Company (CST), the five Maine companies of Fairpoint of New England (Northland, Standish, China, Maine and Sydney Telephone Companies; the "Fairpoint Companies"), and the Public Advocate (OPA). The stipulation permits a reorganization of CST and the Fairpoint Companies, to be accomplished by the acquisition of the stock of CST by MJD Ventures, Inc., which is the immediate owner of the Fairpoint Companies in Maine and a subsidiary of Fairpoint Communications, Inc. A "reorganization" is defined in 35-A M.R.S.A. § 708(1)(A) and approval of a reorganization is required by 35-A M.R.S.A. § 708(2). MJD Ventures, Inc. will also acquire the stock of CommTel Communications, Inc. (CCI), but reorganization approval is not necessary for that transaction.¹

II. BACKGROUND

On July 1, 2003, CST and the Fairpoint Companies filed a Joint Application for approval of a proposed reorganization of each of the Companies. The proposed reorganization of CST consists of the creation of new affiliated interests for CST, namely, each of the Fairpoint operating telephone utilities, MJD Ventures, Inc. and Fairpoint Communications, Inc. The proposed reorganization of the Fairpoint Companies in Maine consists of the creation of new affiliated interests, namely, CST and CCI.

¹ CCI is a competitive local exchange carrier (CLEC) and interexchange carrier (IXC) and an affiliated interest of CST. No approval is needed for the reorganization that consists of the acquisition of CCI's stock by MJD Ventures, Inc. because we have waived that requirement for all IXCs in Chapter 280, § 12 and for all CLECs in our orders granting authority to provide service. *CommTel Communications, Inc., Petition for Finding of Public Convenience and Necessity to Provide Service as a Local Exchange Carrier and as an Interexchange Telephone Utility*, Docket No. 2001-791, Order Granting Authority (March 19, 2002).

Notice was sent to potentially interested persons. Only the Public Advocate intervened. Both the Public Advocate and the Commission advisory staff conducted written discovery, and the parties and the advisors met on two occasions to discuss the issues in the cases and potential terms for a stipulated result.

On October 28, 2003, the Public Advocate, CST and the Fairpoint Companies filed a Stipulation to resolve the issues in the case. Among other issues, the Stipulation contains a provision governing the timing of a rate proceeding for CST, a provision requiring CST to propose a plan for ensuring service quality, and a provision requiring all of the Fairpoint Companies (which will include CST if the stock acquisition takes place) to address issues concerning their various line extension policies. We considered the Stipulation at our deliberations on November 3, 2003.

III. STANDARD FOR APPROVAL OF STIPULATIONS

In approving a stipulation, we consider whether the parties joining the stipulation represent a sufficiently broad spectrum of interests, whether the process leading to the stipulation was fair and whether the stipulated result is reasonable and not contrary to legislative mandate. See e.g., *Consumers Maine Water Company, Proposed General Rate Increase of Rockland and Hartland Divisions*, Docket No. 96-739 (July 3, 1997) at 2. The Public Advocate represents the using and consuming public of all of the telephone utilities affected by this transaction. The OPA has signed the Stipulation. We find that the process was fair and that all interested parties had a reasonable opportunity to participate.

The standard for approval of a reorganization is contained in 35-A M.R.S.A. § 708(2)(A). The applicant must prove that the reorganization is consistent with the interests of the utilities' ratepayers and investors. We have consistently interpreted that provision as requiring that ratepayers and investors not be harmed as a result to the reorganization.

IV. DECISION

We are satisfied that the Stipulation result is reasonable and that various provisions contained in the Stipulation will act to reasonably ensure that customers are not harmed as a result of the reorganizations that the Stipulation approves.

Accordingly, we

A P P R O V E

The Stipulation (attached to this Order), filed in Docket No. 2003-475 on October 28, 2003, and INCORPORATE it into this Order. The applicants shall comply with all requirements contained in the Stipulation.

Dated at Augusta, Maine, this 14th day of November, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.